

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:)	
	Roland N. Walker)	
Serial No.:	09/964,989)	
Filed:	September 26, 2001)	Art Unit
For:	PROVIDING AN IMAGE ON AN ORGANIC PRODUCT)	1744
Examiner:	Abraham Bahta)	

RESPONSE

Mail Stop: Non-Fee Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This correspondence is responsive to the Office Action mailed May 16, 2006, for the above-referenced case. Applicant hereby provides this response pursuant to 37 C.F.R. § 1.111.

AMENDMENTS TO THE CLAIMS

1. (withdrawn) A method for providing an image on an organic product, the method comprising the steps for:
 - creating an image on a transfer medium; and
 - transferring the image onto an organic product.
2. (withdrawn) The method as recited in claim 1, wherein the step for creating an image comprises the steps for:
 - creating a first image on a cliché;
 - applying ink to the cliché; and
 - lifting at least a portion of the ink from the cliché to form a second image,wherein the second image is the image created on the transfer medium.
3. (withdrawn) A method as recited in claim 2, wherein the step for lifting comprises the steps for:
 - placing the transfer medium in contact with the cliché; and
 - removing the transfer medium from the cliché.
4. (withdrawn) A method as recited in claim 2, wherein the step for creating further comprises the step for removing excess ink applied to the cliché.
5. (withdrawn) A method as recited in claim 2, wherein the step for creating a first image comprises the step for etching the first image into the cliché.
6. (withdrawn) A method as recited in claim 5, wherein the cliché comprises a photosensitive material.

7. (withdrawn) A method as recited in claim 6, wherein step for etching comprises the steps for:

providing a third image;

creating a film positive of the third image; and

exposing the photosensitive material through a wash out process to etch the third image into the photosensitive material.

8. (withdrawn) A method as recited in claim 1, further comprising the step for allowing the transferred image to set.

9. (withdrawn) A method as recited in claim 1, wherein the organic product comprises at least a portion of:

(i) a flower;

(ii) a fruit; or

(iii) a plant.

10. (withdrawn) A method as recited in claim 1, wherein the image transferred onto the organic product comprises at least one of:

(i) a character;

(ii) a number;

(iii) a logo;

(iv) a picture;

(v) a symbol;

(vi) a design;

(vii) an icon; or

(viii) a trademark.

11. (cancelled)

12. (previously presented) A product as recited in claim 35, wherein the group of flowers comprises roses.

13. (previously presented) A product as recited in claim 35, wherein the repeatable, identical, pad-printed image is on at least one of:

- (i) a petal of a flower in the group of flowers; or
- (ii) a leaf of a flower in the group of flowers.

14. (previously presented) A product as recited in claim 35, wherein the repeatable, identical, pad-printed image includes at least one of:

- (i) a character;
- (ii) a number;
- (iii) a logo;
- (iv) a picture;
- (v) a symbol;
- (vi) a design;
- (vii) an icon; and
- (viii) a trademark.

15. (previously presented) A product as recited in claim 35, wherein the repeatable, identical, pad-printed image has been pad-printed through a transfer printing technique.

16. (withdrawn) A system for providing an image on an organic product, the system comprising:

- a portion of an organic product;

a transfer medium; and

an image, wherein the image is located on a portion of the transfer medium and is used to provide a transferred image onto the organic product.

17. (withdrawn) A system as recited in claim 16, wherein the organic product is a flower.

18. (withdrawn) A system as recite in claim 17, wherein the portion is one of:

- (i) a petal; or
- (ii) a leaf.

19. (withdrawn) A system as recited in claim 16, further comprising a cliché, wherein the cliché includes an etched image that is at least partially filled with ink to place the image on the portion of the transfer medium

20. (withdrawn) A system as recited in claim 19, wherein the cliché includes a plate, and wherein the transfer medium includes one of:

- (i) a pad; or
- (ii) a roller.

21. (cancelled)

22. (cancelled)

23. (cancelled)

24. (cancelled)

25. (withdrawn) A product as recited in claim 24, wherein the flower is a rose.
26. (previously presented) A product as recited in claim 37, wherein the repeatable, identical, pad-printed image includes at least one of:
- (i) a character;
 - (ii) a number;
 - (ix) a logo;
 - (x) a picture;
 - (xi) a symbol;
 - (xii) a design;
 - (xiii) an icon; and
 - (xiv) a trademark.
27. (previously presented) A product as recited in claim 35, wherein the repeatable, identical, pad-printed image has been machine printed through a transfer printing technique.
28. (cancelled)
29. (cancelled)
30. (cancelled)
31. (withdrawn) A product as recited in claim 11, wherein ink used to create the image dries at substantially the same time.

32. (withdrawn) A product as recited in claim 11, wherein the group of flowers is a single flower.

33. (withdrawn) A product as recited in claim 24, wherein the petal is not indented.

34. (withdrawn) A product as recited in claim 24, wherein the image dries at substantially the same time.

35. (previously presented) A product comprising:

a group of flowers, each flower having a stem and one or more petals, wherein said one or more petal(s) is free of an etched or cut image; and

a repeatable, identical, pad-printed image provided on said petal that is free from an etched or cut image, said image selected from the group of:

a communication from a sender of the group of flowers to an individual recipient of the group of flowers;

a personalized communication to the individual recipient of the group of flowers;

a generic message to recipients in general; and

a commemoration of an event.

36. (cancelled)

37. (previously presented) A product comprising:

a group of flowers, each flower having a stem and one or more petals, wherein said one or more petal(s) is free from cuttings or markings of a laser; and

a repeatable, identical, pad-printed image provided on each of said petal that is free from cuttings or markings of a laser, said image selected from the group of:

a communication from a sender of the group of flowers to a recipient of the group of flowers;

a personalized communication to the individual recipient of the group of flowers;

a generic message to recipients in general; and

a communication commemorating an event.

38. (previously presented) A product as recited in claim 37, wherein the group of flowers comprises roses.

39. (previously presented) A product as recited in claim 37, wherein the repeatable, identical, pad-printed image is on at least one of:

(i) a petal of a flower in the group of flowers; or

(ii) a leaf of a flower in the group of flowers.

40. (previously presented) A product as recited in claim 37, wherein the repeatable, identical, pad-printed image has been pad-printed through a transfer printing technique.

41. (previously presented) A product as recited in claim 37, wherein the repeatable, identical, pad-printed image has been machine printed through a transfer printing technique.

REMARKS

In the Office Action mailed from the United States Patent and Trademark Office on May 16, 2006, the Examiner rejected claims 12-15, 26-27, 35 and 37-41 under 35 U.S.C. § 103(a) as unpatentable over Jones et al. (Patent No. 6,172,328) or Skonecki (Patent No. 5,305,550) in view of Roulleau (Patent No. 5,142,976). Applicants respectfully traverse this rejection and submit that the claims are not rendered obvious by the cited art.

The claims recite limitations not taught or fairly suggested by the cited references, or their combination. In re Vaeck, 947 F.2d408 (Fed. Cir. 1991). In particular, the claims of the present invention describe a product comprising a group of flowers, each flower having a stem and one or petals wherein said one or more petals is free of attached or cut image; and a repeatable, identical pad-printed image provided on said petal that is free from an etched or cut image.

Jones discloses a method and system for etching, cutting and or altering surface flower utilized a laser energy source. Jones was concerned with maintaining the leaf's ability to photosynthesize, "unlike certain other materials which are rigid and have certain defined thicknesses allowing for a larger margin of error, flexibility of the leaf material and the delicateness of the leaf and flower petals also raise concerns in being able to adequately mark such products using a laser." Jones, col. 3, lns. 43-50. Jones indicated that the cross section of the leaf generally includes several layers from the top to the underside and that photosynthesis primarily took place top underside. Being concerned with maintaining the photosynthetic capacity of leaves after being marked, Jones indicated that "therefore damage to the undersurface should be avoided." Jones,

col. 4, lns. 13-14. Accordingly, Jones does teach a method that damages the surface of the leaf while maintaining the capacity of the leaf to photosynthesize. Jones' entire disclosure relates to identifying quantifiable requirements which allow the top layers of a leaf to be burned or etched by a laser without damaging the layers of the leaf which photosynthesize. Accordingly, methods conducted by Jones do damage at least the cuticle layer of the flower.

In contrast to Jones' image, the image in Applicants' claimed invention is transferred, provided, and placed onto the petal, and not, etched, cut or permanently penetrated at the site where the image exists. Though the leaf maintains its ability to photosynthesize after an image is applied by Jones' method, leaf or flower's cellular surface, at least the cuticle, is etched or burned, which is unlike the petal of the claimed invention that is "free from etched or cut" images. Hence, Jones neither teaches nor suggests the claim limitations of Applicants' currently amended invention.

Rouleau disclosed a machine for printing on uncooked poultry eggs. The disclosure of Rouleau is primarily concerned printing a decorative motif on a curved surface. Rouleau's concerns are evident in the discussion found in column 1 of the '976 patent, which indicates that previously used ink jet processes were unacceptable for producing good quality large decorative motifs because the images were not continuous and that the application of a motif over the curved surface of an egg, particularly the narrow end of an egg, was difficult not because the egg was fragile, but because the curved surface of the egg is "very difficult to make accessible on a conventional support." Rouleau, col. 1 lns. 52-57. Accordingly, the disclosure of Rouleau is

preoccupied, not with the delicate flexible nature of the egg shell, but with applying a quality repeatable image to a substantially curved surface.

No reasonable expectation of success would be anticipated when combining Jones with Roulleau. In re Vaeck, 947 F.2d 488, (Fed. Cir. 1991). Jones provides the critical insight that applying images to a flexible delicate leaf and flower material is different from the application of an image to materials which are rigid and have certain defined thicknesses allowing for a larger margin of error. Jones, col. 3, lns. 43-50. The shell of an egg is such a material. Roulleau teaches of poultry eggs, while Jones teaches specifically of etching, cutting or burning into the surface of a leaf. Jones, Abstract line 1; Col. 1, lines 12-15, Col. 3, lines 21-29; Col. 4, lines 21-25. Accordingly, one skilled in the art, namely Jones at the time, indicates that it is not obvious to utilize methods of applying images to rigid surfaces of defined thicknesses to applying an image to a delicate and flexible leaf. Accordingly, Applicant respectfully submits that there is no motivation or suggestion found in the art to combine the teachings of Jones with Roulleau.

Applicant's claimed invention is not obvious over Skonecki in view of Roulleau, because Skonecki teaches away from the claimed invention. In re Vaeck, 947 F.2d 488, (Fed. Cir. 1991). Specifically, Skonecki discloses a hand-held applicator used to create an individualized image on a flower. This hand-held applicator precludes the ability to mass produce that particular image. Skonecki, col. 1, lns. 27-35; col. 1, lns. 53-55; col. 1, lns. 62-64; col. 2, lns. 1-15; col. 2, lns. 41-44. In contrast, Applicants' independent claims 35 and 37 recite a "repeatable, identical, pad-printed, image provided on each of the flowers in the group of flowers." Thus, the independent claims are not made obvious by the cited references because Skonecki teaches away from the claims.

Rouleau does not teach pad printing on an image as broad as a “delicate organic product.” Rouleau specifically teaches printing on “uncooked poultry eggs.” (Col. 3, 17-33). And, Rouleau teaches of printing in a way different than disclosed in Applicants’ specification; on the egg by a machine comprising two angled facets. Applicants teach of printing on a petal that leaves a surface-only image on the petal.

Thus, for at least the foregoing reasons, Applicant respectfully submits that the references cited herein do not render obvious the independent claims. In addition, dependent claims place further limitations on otherwise allowable subject matter. Accordingly, Applicant respectfully submits that the cited references do not make obvious the newly amended claim set provided herein.

CONCLUSION

Applicant submits the amendments made herein do not add new matter and the claims are now in condition for allowance. Accordingly, Applicant requests favorable reconsideration. If the Examiner has any questions or concerns regarding this communication, or if the Examiner would like to suggest amended claim language, the Examiner is invited to call the undersigned.

DATED this 18 day of September, 2006.

Respectfully submitted,



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